

SENATE BILL No. 380

DIGEST OF INTRODUCED BILL

Citations Affected: IC 34-23-1-2.

Synopsis: Malpractice limitations. Raises the aggregate damages that may be obtained for the death of an adult person from \$300,000 to \$1,250,000. Requires the health finance commission to study during the 2014 legislative interim: (1) whether additional training for health facility employees is needed and the funding mechanism to provide the training; and (2) whether additional oversight and regulation of health facilities are necessary for the safety of health facility residents.

Effective: July 1, 2014.

Waltz

January 14, 2014, read first time and referred to Committee on Judiciary.



Second Regular Session 118th General Assembly (2014)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

SENATE BILL No. 380

A BILL FOR AN ACT to amend the Indiana Code concerning civil procedure.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 34-23-1-2 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 2. (a) As used in this
3 section, "adult person" means an unmarried individual:
4 (1) who does not have any dependents; and
5 (2) who is not a child (as defined in IC 34-23-2-1).
6 (b) If the death of an adult person is caused by the wrongful act or
7 omission of another person, only the personal representative of the
8 adult person may maintain an action against the person whose wrongful
9 act or omission caused the death of the adult person.
10 (c) In an action to recover damages for the death of an adult person,
11 the damages:
12 (1) must be in an amount determined by a:
13 (A) court; or
14 (B) jury;
15 (2) may not include:
16 (A) damages awarded for a person's grief; or



- 1 (B) punitive damages; and
 2 (3) may include but are not limited to the following:
 3 (A) Reasonable medical, hospital, funeral, and burial expenses
 4 necessitated by the wrongful act or omission that caused the
 5 adult person's death.
 6 (B) Loss of the adult person's love and companionship.
 7 (d) Damages awarded under subsection (c)(3)(A) for medical,
 8 hospital, funeral, and burial expenses inure to the exclusive benefit of
 9 the adult person's estate for the payment of the expenses. The
 10 remainder of the damages inure to the exclusive benefit of a
 11 nondependent parent or nondependent child of the adult person.
 12 (e) Aggregate damages that may be recovered under subsection
 13 (c)(3)(B) may not exceed ~~three hundred thousand dollars (\$300,000).~~
 14 **one million two hundred fifty thousand dollars (\$1,250,000).** A jury
 15 may not be advised of the monetary limits placed on damages under
 16 this subsection. If the jury awards the plaintiff damages under
 17 subsection (c)(3)(B) in an amount that exceeds ~~three hundred thousand~~
 18 ~~dollars (\$300,000);~~ **one million two hundred fifty thousand dollars**
 19 **(\$1,250,000),** the court shall reduce that part of the damages awarded
 20 to the plaintiff to ~~three hundred thousand dollars (\$300,000);~~ **one**
 21 **million two hundred fifty thousand dollars (\$1,250,000).**
 22 (f) A parent or child who wishes to recover damages under this
 23 section has the burden of proving that the parent or child had a
 24 genuine, substantial, and ongoing relationship with the adult person
 25 before the parent or child may recover damages.
 26 (g) In an action brought under this section, a court or a jury may not
 27 hear evidence concerning the lost earnings of the adult person that
 28 occur as a result of the wrongful act or omission.
 29 (h) In awarding damages under this section to more than one (1)
 30 person, the court or the jury shall specify the amount of the damages
 31 that should be awarded to each person.
 32 (i) In an action brought under this section, the trier of fact shall
 33 make a separate finding with respect to damages awarded under
 34 subsection (c)(3)(B).
 35 SECTION 2. [EFFECTIVE JULY 1, 2014] **(a) As used in this**
 36 **SECTION, "health facility" has the meaning set forth in**
 37 **IC 16-18-2-167.**
 38 **(b) During the 2014 legislative interim, the health finance**
 39 **commission established by IC 2-5-23-3 shall study the following**
 40 **concerning health facilities:**
 41 **(1) Whether additional training for health facility employees**
 42 **is needed and the funding mechanism to provide the training.**



- 1 **(2) Whether additional oversight and regulation of health**
- 2 **facilities are necessary for the safety of health facility**
- 3 **residents.**
- 4 **(c) This SECTION expires December 31, 2014.**

